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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,156	09/12/2003	Donald E. Weder	8403.951	8745

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EXAMINER

GELLNER, JEFFREY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/662,156

Applicant(s)

WEDER ET AL. *cf*

Examiner

Jeffrey L. Gellner

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 and 27-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12 September 2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment of the sheet with an adhesive(cohesive), only, as disclosed in the independent claims must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Examiner notes that this embodiment was shown in drawings of US 5,410,856 as Figs. 7 and 9. The proposed drawing correction of 27 July 2004 shows an adhesive, or cohesive, with a band. The independent claims of the instant application are drawn to a sheet with at least one of a band, an adhesive, and a cohesive.” The objection is that the sheet with only an adhesive, or cohesive, (without a band) is not shown in the instant application.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1,2,4-9, 11-16, 18, 19, 27, 28, and 30 are rejected under 35 U.S.C. §102(b) as being anticipated by Lovett Jr. (US 1,964,887; 5<sup>th</sup> document listed on 1<sup>st</sup> page of Applicant's 1449).

As to Claims 1, 6, 13, 27, and Lovett Jr. discloses a floral assembly (Figs. 1-5) comprising a floral holding material (page 2 lines 1-5) having upper and lower ends (Figs. 1-3) and without a pot; a floral grouping 11 and 12 of Fig. 2) in the floral holding; and a decorative sheet (14 of Figs. 1 and 2) of material having upper and lower surfaces (Figs. 1 and 2) and a sheet disposed about the material (Figs. 1 and 2); and, the decorative sheet of material having a crimped portion (region around 19 of Fig. 1) having a plurality of overlapping folds (Fig. 1) and a band (20 of Fig. 1) disposed about the decorative sheet to hold the crimped portion.

As to Claims 2, 9, 16, and 28, Lovett Jr. further discloses paper (page 2 lines 10-17).

As to Claims 4, 11, 18, and 30, Lovett Jr. further discloses a non-shape sustaining material ("pliable nature" of page 2 line 10).

As to Claims 5, 12, and 19 Lovett Jr. further discloses a string (20 of Fig. 1).

As to Claims 7, 8, 14, and 15 Lovett Jr. further discloses the crimped portion both near the upper end and extending above the upper end of the floral holding material (shown in Fig. 1).

### ***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 10, 17, and 29 are rejected under 35 U.S.C. §103(a) as being unpatentable over Lovett Jr. (US 1,964,887; 5<sup>th</sup> document listed on 1<sup>st</sup> page of Applicant's 1449) in view of Weder (US 4,950,216).

As to Claims 3, 10, 17, and 29, the limitations of Claims 1, 6, 13, and 27 are disclosed as described above. Not disclosed is the sheet of material having a thickness of from 0.1 to 30 mils. Weder ('216), however, discloses a sheet that is an decorative floral assembly with a thickness of from 0.1 to 30 mils (col. 3 lines 3-14). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the assembly of Lovett Jr. by having the thickness of the sheet from 0.1 to 30 mils as disclosed by Weder ('216) so as to keep the assembly as light as possible.

### ***Response to Arguments***

Applicant's arguments filed 27 July 2004 have been fully considered but they are not persuasive. The crux of Applicant's argument is that Lovett Jr., alone, or in combination with Weder '216 does not disclose or suggest a floral holding material capable of supporting a floral grouping without a pot where the floral holding material is a decorative sheet (Remarks pages 15-17). Lovett Jr. at Fig. 2 shows a root and stem in a "bag," as defined by Lovett Jr. at col. 2 line 69, with a growing medium about the roots. Examiner considers Fig. 2 to clearly show a floral holding material holding a floral grouping, in that the root and stems will be part of some type of flowering plant which would have a floral grouping. No pot is present in Fig. 2. Finally, Examiner considers the "bag" to be a decorative sheet because the Applicant discloses at paragraph 18 of the specification that the sheet "may be any shape and the circular shape is

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shown in Fig. 1 only by way of example” (Lovett Jr. shows a sheet shaped as a bag) and the “bag” is decorative because Applicant discloses at paragraph 20 of the specification that the sheet with “a decorative pattern, such as a color and/or embossed pattern” (Lovett Jr. shows a paper bag which would have some type of color to it). Since Lovett Jr. discloses the claim’s limitations the combination also discloses these limitations.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

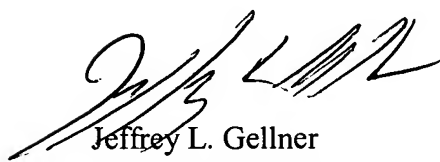
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner  
Primary Examiner